



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 17, 1997

Mr. Eric M. Bost
Commissioner
Texas Department of Human Services
P.O. Box 149030
Austin, Texas 78714-9030

OR97-2764

Dear Mr. Bost:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 110912.

The Texas Department of Human Services (the "department") received a request for the entire case record of the sexual harassment investigation conducted by the department's civil rights division involving the requestor, a department employee. The complaint was brought against the employee by a food stamp recipient who is also a client of the Texas Department of Mental Health and Mental Retardation. The submitted information includes records related to the complainant as well as other recipients of the department's assistance programs. You assert that the requested information is excepted from required public disclosure based on section 552.101 of the Government Code in conjunction with various state and federal statutes and regulations.

Section 552.101 of the Government Code excepts from disclosure information that is made confidential by law, including information made confidential by statute. Section 21.012 of the Texas Human Resources Code requires that the department

shall provide safeguards which restrict the use or disclosure of information concerning applicants for or recipients of the department's assistance programs to purposes directly connected with the administration of the programs.

Section 12.003 of the Human Resources Code provides:

(a) Except for purposes directly connected with the administration of the department's assistance programs, it is an offense for a person to

solicit, disclose, receive, or make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of the names of, *or any information concerning*, persons applying for or receiving assistance if the information is directly or indirectly derived from the records, papers, files, or communications of the department or acquired by employees of the department in the performance of their official duties.

(Emphasis added).

In Open Records Decision No. 584 (1991) at 3, this office concluded that "[t]he inclusion of the words 'or any information' juxtaposed with the prohibition on disclosure of the names of the department's clients clearly expresses a legislative intent to encompass the broadest range of individual client information, and not merely the clients' names and addresses." Consequently, it is the specific information pertaining to individual clients, and not merely the clients' identities, that is made confidential under section 12.003. *See also* Open Records Decision No. 166 (1977). Accordingly, as the requestor in this case is not seeking the requested information "for purposes directly connected with the administration of the department's assistance programs," we conclude that the department may not release the requested information which is "directly or indirectly derived from the records, papers, files, or communications" maintained by the department. The submitted information must therefore be withheld pursuant to section 552.101 of the Government Code.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/ch

Ref.: ID# 110912

Enclosures: Submitted documents

cc: Mr. Ralph Otero
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(w/o enclosures)